IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 18462 OF 2007

Dated : September 3, 2007

Between:

N. Sanjeev

Petitioner

AND

The Government of Andhra Pradesh,
Rep. By its Principal Secretary,
Irrigation & CAD Department,
Secretariat, Hyderabad and another

Respondents

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 18462 OF 2007

ORAL ORDER: **(per THE HON'BLE MRS. JUSTICE T.MEENA KUMARI)**

Seeking a writ of certiorari to call for the records

relating to the order, dated 06.08.2007, passed in O.A. No. 1803 of 2007 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad, and quash the same as untenable, arbitrary and in violation of the principles of natural justice and Article 16(4) of the Constitution of India and consequently to direct the respondents to prepare the year-wise panels as directed by the first respondent in Memo dated 5.3.2007, the petitioner filed this writ petition.

The petitioner herein filed the above O.A. before the Tribunal assailing action of the respondents in filling up the post of Executive Engineer without taking into account the vacancy position in the panel years 1999-2000 and by taking into account the promotions effected during those years, as illegal and arbitrary.

Few facts, that are necessary for disposal of this writ petition, are that the petitioner was initially appointed as Assistant Executive Engineer in February, 1988 and now working as Executive Engineer. It is submitted that no year-wise panel for the years 1999-2000 and 2000-2001 was prepared and on their representation, the first respondent has issued Memo dated 29.10.2005 to prepare roaster strictly in accordance with the Rules and the second respondent prepared a provisional seniority list without even preparing year-wise panel for the year 1999-2000 and 2000-2001. It is specific case of the petitioner that had the panels been prepared for the years

1999-2000 and 2000-2001 for promotions to the post of Deputy Executive Engineer and consequent as Executive Engineers, his name would have figured in the panel of 2001-2002. It is stated that to circumvent this illegality, the Government issued another Memo dated 5.3.2007 to prepare year-wise panel and follow the principles of adequacy of Scheduled Castes and Scheduled Tribes in all categories, which the second respondent did not rectify. Hence, the petitioner filed the above O.A. before the Tribunal.

The grievance of the petitioner herein before the Tribunal was non-preparation of year-wise panel, as a result of which all the vacancies were pushed down affecting the promotional avenues of the petitioner and his placement at an appropriate place in accordance with the Rule of Reservation in terms of GO Ms. No. 5 dated 14.2.2003.

The Tribunal clubbed the instant O.A. with the batch of other O.As. and dismissed the same by the order impugned herein.

It is contended by the learned counsel for the petitioner that had the second respondent prepared year-wise panel, the names of 62 temporary Deputy Executive Engineers who were pushed down from 1998-99 panel to 2001-2002, would have placed in 1999-2000 and 2000-2001 panel, without keeping the same empty. It is also his

contention that as 118 vacancies that arose in Zone –VI for the panel year 2001 – 2002 and since the respondents did not chose to mention about the empty earlier panels for the pat years, the petitioner is sought to be included in 2001-2002 panel, though he is entitled to be included in the panel of 1999-2000 or 2000-2001 and thus he is deprived of his seniority in terms of GO Ms. No. 5 dated 14.2.2003, inasmuch as all the vacancies and the promotional avenues are pushed down. It is also stated that there are only 5 schedule caste candidates in 118 vacancies and thus there is no adequate representation of Scheduled Caste.

The contention of the learned counsel for the petitioner is that the Memo dated 5.3.2007 has not been properly implemented. However, as can be seen, the prayer of the petitioner is to prepare the panels as directed in the said Memo. If this contention is accepted, it may result in setting aside the promotions that were affected previously. Apart from that, this prayer cannot be entertained for the reason that the petitioner has not added the promotees from out of the earlier panels, as parties to the writ petition.

The first respondent noticing the fact that in view of the non-preparation of panels as a result of which vacancies of several panel years are brought to a single year before the panel year 2002-2003, it was directed to

implement the Rule of Reservation in view of GO Ms. No. 5 dated 14.2.2003 and also directed that adequacy of the Scheduled Castes and Scheduled Tribes employees shall be maintained with reference to the cadre strength.

Under the above circumstances, the grievance of the petitioner should be with reference to his non-promotion to the higher post, if he is otherwise entitled to and also to assail the action of the respondents, in the event of GO Ms. No. 5 dated 14.2.2003 not implemented in the department, where he is working.

Therefore, under the above circumstances, we are also of the opinion that the prayer sought for with reference to the inaction on the part of the respondents in not preparing the panels for the years 1999-2000 and 2000-2001, with reference to GO Ms. No. 5 dated 14.2.2003, is not maintainable inasmuch as the petitioner kept quiet nearly for six year and making a claim for the promotion pursuant to GO Ms. No. 5 dated 14.2.2003.

Consequently, we are not inclined to interfere with the impugned order. However, we leave it open to the petitioner to agitate his rights before the Tribunal afresh with regard to the non-implementation of GO Ms. No. 5 dated 14.2.2003 and Memo No. 15057/Ser.I.2/2006-14 dated 5.3.2007. In the event, the petitioner approaches the Tribunal, the Tribunal is directed to dispose of the same on merits, without being influenced by any of the

observations made earlier or made hereinbefore.

With the above directions, the Writ Petition is disposed of. No order as to costs.

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T.MEENA KUMARI, J.

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G.CHANDRAIAH, J.

September 3, 2007
MAS